

(4) *Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information and exempted pursuant to 5 U.S.C. 552a(k)(5).* Information exempted pursuant to 5 U.S.C. 552a(k)(5) shall be made available to an individual upon request except to the extent that the information would reveal the identity of a confidential source. Material that would reveal the identity of a confidential source shall be extracted or summarized in a manner which protects the source and the summary or extract shall be provided to the requesting individual.

(5) *Testing or examination material exempted pursuant to 5 U.S.C. 552a(k)(6).* Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service which has been exempted pursuant to 5 U.S.C. 552a(k)(6) shall not be made available to an individual if disclosure would compromise the objectivity or fairness of the testing or examination process but may be made available if no possibility of such compromise exists.

[40 FR 44484, Sept. 26, 1975, as amended at 44 FR 50804, Aug. 30, 1979; 50 FR 50284, Dec. 10, 1985; 60 FR 63900, Dec. 13, 1995; 70 FR 34309, June 14, 2005]

§ 9.62 Records under control of another Government agency.

Requests received by NRC pertaining to records under the control of another Government agency will be returned to the requester with the name of the controlling Government agency, if known, within ten working days after receipt by the NRC.

[70 FR 34309, June 14, 2005]

DETERMINATIONS AND APPEALS

§ 9.65 Access determinations; appeals.

(a) *Initial determinations.* For agency records located in the Office of the Inspector General, the Assistant Inspector General for Investigations shall determine whether access to the record is available under the Privacy Act. For all other agency records, the Freedom of Information Act and Privacy Act Officer with the advice of the system

manager having control of the record to which access is requested, shall determine whether access to the record is available under the Privacy Act. The Freedom of Information Act and Privacy Act Officer shall notify the requesting individual in person or in writing of the determination. Unless the request presents unusual difficulties or involves extensive numbers of records, individuals shall be notified of determinations to grant or deny access within 30 working days after receipt of the request.

(1) Notices granting access shall inform the individual when and where the requested record may be seen, how copies may be obtained, and of any fees or anticipated charges which may be incurred pursuant to § 9.85 of this subpart.

(2) Notices denying access must state the reasons for the denial, and advise the individual that the denial may be appealed to the Inspector General, for agency records located in the Office of Inspector General, or the Executive Director for Operations, for all other agency records, in accordance with the procedures set forth in this section.

(b) *Appeals from denials of access.* If an individual has been denied access to a record the individual may request a final review and determination of that individual's request by the Inspector General or the Executive Director for Operations, as appropriate. A request for final review of an initial determination must be filed within 60 calendar days of the receipt of the initial determination. For agency records denied by the Assistant Inspector General for Investigations, the appeal must be in writing directed to the Inspector General and sent to the Freedom of Information Act and Privacy Act Officer by an appropriate method listed in § 9.6. For agency records denied by the Freedom of Information Act and Privacy Act Officer, the appeal must be in writing directed to the Executive Director for Operations and sent to the Freedom of Information Act and Privacy Act Officer by an appropriate method listed in § 9.6. The appeal should clearly state on the envelope and in the letter "Privacy Act Appeal-Denial of Access." The NRC does not consider an appeal